S.B. Civil Writ Petition No. 1314/2004
(Deepak Kumar V/s Vardhman Mahaveer Open Unit, Kota)

Date of Order : 2/12/2004

HON'BLE MR. PRAKASH TATIA,J.

Mr.R.K. Singhal, for the petitioner/s
Mr.A.K. Rajvanshi, for the respondent/s

Heard learned counsel for the parties.

It appears from the facts of the case that the petitioner was declared successful in Pre-B.Ed. Entrance examination conducted by the respondent Vardhman Mahaveer Open University, Kota on 28.11.2003. The petitioner was though successful in the examination but he was not in the first select list. The last date for submitting the relevant documents and fees for the candidates of first select list was upto 10.1.2004. Since some of the students whose names were found in the first select list, either did not appear or did not submit the relevant documents by 10.1.2004, the respondent decided on 3.2.2004 to call the students from the second list because there were 53 vacancies remained unfilled. The petitioner was given this opportunity and the petitioner was asked to submit the relevant documents by or before 10.3.2004. According to the petitioner he completed all formalities and dispatched the relevant documents by currier service on 8.3.2004. However, the documents reached to the respondent only on 11.3.2004. Because of delay of one day, the petitioner

was denied the admission in the B.Ed. Course.

Learned counsel for the petitioner submits that the petitioner was entitled to submit the documents by 10.3.2004 and in ordinary course, the documents should have reached to the respondent on or before 10.3.2004 as the petitioner sent the documents by currier service. It is also submitted that simply because the papers reached to the respondent on 11.3.2004 only on the next day from the last date for submitting the papers, the petitioner should not have been denied the admission in B.Ed. Course. It is also submitted that in any case the documents reached to the respondents before they took any decision to treat petitioner's seat as vacant, therefore, the respondent should not have offered the petitioner's seat to anybody.

Learned counsel for the respondent vehemently submitted that the process given for admission cannot be prolonged for a long period and therefore, when the relevant documents as the petitioner did not reached to the respondent on or before 10.3.2004, they could not have post-poned the process. It is also submitted that the petitioner has not completed the correspondence course and much time has passed.

I considered the submission of the learned counsel for the parties and perused the facts of the

case. It appears that last date of submitting the relevant documents and fees from the first select list was 10.1.2004. The respondent thereafter took a long time to decide that left out 53 vacancies of first process be filled up. The decision was taken on 3.2.2004. Now in the case of petitioner it is said in reply to writ petition that process of giving admission to other student could not have been postponed, therefore, petitioner cannot be given admission as his documents reached to the respondents only a day after the last date. The respondents clearly ignored that before they could have even decided to fill up the vacancy of the seat of the petitioner, they got the relevant documents of petitioner. In above facts the respondent should not have refused the admission to the petitioner. It is true that normally the dates fixed for completion of admission to classes be adhered but by accepting petitioner’s documents which were sent before cut off date and before respondent’s taking any decision to offer the seat to other candidate, the petitioner could have been given admission without delaying in process for rest of the students.

It is clearly admitted by the respondent in their reply that the office of the respondent was open upto 5.00 p.m. on 10.3.2004. The petitioner's form reached to the respondent on 11.3.2004. The

petitioner's form could not have been rejected on 10.3.2004 on the ground of any delay. When the form of the petitioner reached to the respondent on 11.3.2004 on the next day only, then before taking any decision to fill-up the vacancies left out in second process of selection, the respondent could have taken into account that form which was dispatched by the petitioner well in time and it should have reached to the respondent before the cut-out date and thereafter they could have taken decision for inviting other candidates to take the course.

It is true that few months have passed but at the same time it is clear that the person who is duly selected in examination is being denied admission, not because of his fault but on account of fault of currier service. The petitioner immediately approached to this Court on 24.3.2004 and he has not delayed the matter in any manner.

In view of the above, the writ petition deserves to be allowed and hence allowed. The respondent is directed to give admission to the petitioner to the course for which he was found suitable. Further it is directed that in case it is necessary the respondent shall provide opportunity to the petitioner to take the practical course as a special case. However, it is made clear that if there

are any fees which has not been deposited by the petitioner that will be deposited by the petitioner within a period of 10 days from today. This order shall not be a precedent as relief has been granted in the facts and circumstances of this case.

(PRAKASH TATIA)J.

RM/